

UNITED STATES OF AMERICA  
DEPARTMENT OF THE TREASURY  
COMPTROLLER OF THE CURRENCY

In the Matter of: )  
Susan Paoli )  
President )  
The First National Bank of Niagara )  
Niagara, Wisconsin )

AA-EC-12-71

**CONSENT ORDER**

WHEREAS, the Comptroller of the Currency of the United States of America (“Comptroller” or “OCC”) intends to initiate cease and desist and civil money penalty proceedings against Susan Paoli (“Respondent”), pursuant to 12 U.S.C. §§ 1818(b) and (i), on the basis of Respondent’s activities while serving as executive vice president, president, and/or a director at The First National Bank of Niagara, Niagara, Wisconsin (“Bank”), during the period of at least March 2009 through August 2011, for violations of law, unsafe and unsound banking practices, and breaches of fiduciary duty; and

WHEREAS, in the interest of cooperation and to avoid the costs associated with future administrative and judicial proceedings with respect to the above matter, Respondent, without admitting or denying any wrongdoing, desires to enter into this Consent Order (“Order”) issued pursuant to 12 U.S.C. §§ 1818(b) and (i);

NOW, THEREFORE, it is stipulated by and between the Comptroller, through his duly authorized representative, and Respondent that:

**ARTICLE I**  
**JURISDICTION**

(1) The First National Bank of Niagara, Niagara, Wisconsin (“Bank”) is a national banking association, chartered and examined by the Comptroller, pursuant to the National Bank Act of 1864, as amended, 12 U.S.C. § 1 et seq. Accordingly, the Bank is an “insured depository institution” as that term is defined in 12 U.S.C. § 1813(c)(2).

(2) Respondent is a former executive vice president and is currently the president and a director of the Bank, and is an “institution-affiliated party” of the Bank as that term is defined in 12 U.S.C. § 1813(u), having served in such capacity within six (6) years from the date hereof (see 12 U.S.C. § 1818(i)(3)).

(3) Pursuant to 12 U.S.C. § 1813(q), the Comptroller is the “appropriate Federal banking agency” to maintain an enforcement proceeding against institution-affiliated parties of the Bank. Therefore, Respondent is subject to the authority of the Comptroller to initiate and maintain cease and desist and civil money penalty actions against her pursuant to 12 U.S.C. §§ 1818(b) and (i).

**ARTICLE II**  
**COMPTROLLER’S FINDINGS**

The Comptroller finds, and Respondent neither admits nor denies, the following:

(1) During the period of at least March 2009 through March 2010, Respondent approved numerous preferential overdrafts in accounts belonging to a Bank insider or his related interests, which were also Bank affiliates due to the insider's common ownership, without obtaining prior Board approval or the appropriate collateral, all in violation of 12 C.F.R. §§ 215.4 and 223.13.

(2) During the period of May 2010 through August 2011, Respondent participated in the processing or approval of seven (7) loans, totaling \$200,060.00, to family members and business associates of a Bank insider. At the time that the loans were made, Respondent knew that the loan proceeds would be transferred to the insider or his related interests, which were also Bank affiliates due to the insider's common ownership. During this time period, the Bank was unable to further extend credit to the Bank insider or his related interests directly without obtaining prior Board approval. The seven loans are attributable to the Bank insider pursuant to 12 C.F.R. § 215.3(f), and to Bank affiliates pursuant to 12 C.F.R. § 223.16. Therefore, the Bank violated 12 C.F.R. §§ 215.4, 223.13, or 223.14 by making these loans, because the loans were not approved in advance by the Board, were made in an unsafe or unsound manner, and two (2) of the those loans were not secured and one (1) of those loans was partially secured. By participating in the processing or approval of these loans, Respondent in part caused, brought about, participated in, or aided and abetted these violations.

(3) By reason of the foregoing conduct, Respondent engaged in violations of law, reckless unsafe or unsound practices, a pattern of misconduct, and breached her fiduciary duty to the Bank.

### **ARTICLE III**

#### **PERSONAL CEASE AND DESIST ORDER**

Respondent consents to, and it is ORDERED that:

(1) Whenever Respondent is employed by, or is offered employment at, a depository institution (as defined in 12 U.S.C. § 1813(c)(2)) or otherwise becomes an institution-affiliated party (“IAP”) within the meaning of 12 U.S.C. § 1813(u), Respondent shall:

- (a) Comply fully with all laws, regulations, and policies applicable to any depository institution of which she is an institution-affiliated party.
- (b) Avoid engaging in any unsafe or unsound practices, as that term is used in Title 12 of the United States Code.
- (c) Not breach the fiduciary duties of loyalty or care owed to any depository institution of which she is an institution-affiliated party.
- (d) Adhere to the written policies and procedures of any depository institution or agency with which she is or may become affiliated. In the event that the Respondent is

affiliated with a depository institution or agency with written policies and procedures that are more stringent than the provisions of this Order, the Respondent shall adhere to the written policies and procedures of such depository institution or agency.

(e) Prior to becoming an IAP, or within ten (10) days of consenting to this Order if Respondent is currently an IAP, provide a copy of this Order to the depository institution's board of directors.

(f) Provide written certification of her compliance with the foregoing disclosure requirement to the Director of the Enforcement and Compliance Division, Office of the Comptroller of the Currency, 250 E Street, S.W. Washington, DC 20219 within ten (10) days of compliance.

(2) Respondent shall recuse herself from involvement, and shall not be involved, in any manner (including but not limited to taking applications, participating in discussions and approvals, disbursements, collections and servicing) in any extensions of credit (including renewals and overdrafts) and non-sufficient fund determinations, between the Bank and (i) any insider of the Bank, as defined at 12 C.F.R. § 215.2(h), (ii) Robert Gunville, Jr. or his related interests (as defined at 12 C.F.R. § 215.2(n)), or (iii) any third party that to Respondent's knowledge transfers any portion of the proceeds of such transaction to any insider, Robert Gunville, Jr., or his related interests. Respondent is permitted,

notwithstanding the other provisions of this Paragraph, to: (i) review overdraft reports and uncollected funds reports prepared by the Bank to ensure that Bank policies were followed as required, and (ii) pursuant to her service on the Board of Directors, participate in the review and approval of policies and procedures related to insider transactions that come before the Board of Directors.

(3) This Order shall be enforceable to the same extent and in the same manner as an effective and outstanding order that has been issued and has become final pursuant to 12 U.S.C. § 1818.

#### **ARTICLE IV**

##### **ORDER FOR CIVIL MONEY PENALTY**

Respondent consents to, and it is ORDERED that:

(1) Respondent shall pay a civil money penalty in the amount of five thousand dollars (\$5,000.00), which shall be paid in full upon execution of this Order.

(2) Respondent shall make payment by cashier's check or money order made payable to the Treasurer of the United States, and shall deliver the payment to: Comptroller of the Currency, P.O. Box 979012, St. Louis, Missouri 63197-9000. The docket number of this case (AA-EC-12-71) shall be entered on the submitted payment, and a copy of the check or money order shall be returned to the OCC along with this original executed Order to the Director of the

Enforcement and Compliance Division, Office of the Comptroller of the Currency, 250 E St. S.W., Washington, DC 20219.

(3) Respondent shall notify the OCC of the address of her current place of residence by completing the form attached hereto as Appendix A and returning it along with the original executed Order.

(4) This Order shall be enforceable to the same extent and in the same manner as an effective and outstanding order that has been issued and has become final pursuant to 12 U.S.C. § 1818.

## **ARTICLE V**

### **BANKRUPTCY**

(1) If Respondent files for bankruptcy protection, Respondent shall notify the Director within ten (10) days of the filing, and shall deliver a copy of the filing to the Director of the Enforcement and Compliance Division, Office of the Comptroller of the Currency, 250 E Street S.W., Washington, DC 20219.

(2) In any bankruptcy proceeding in which it is or may be contended that Respondent's obligation to pay a civil money penalty pursuant to this Order is subject to discharge, Respondent will in no manner contest the assertion of the Comptroller or any agent, officer or representative of the United States, pursuant to 11 U.S.C. § 523(a) or otherwise, that the civil money penalty obligation in the Order arises out of acts which result in claims not dischargeable in bankruptcy.

## ARTICLE VI

### WAIVERS

- (1) By executing this Order, Respondent waives:
  - (a) the right to the issuance of a Notice of Charges and Notice of Assessment of a Civil Money Penalty under 12 U.S.C. § 1818;
  - (b) all rights to a hearing and a final agency decision pursuant to 12 U.S.C. § 1818 and 12 C.F.R. Part 19;
  - (c) all rights to seek judicial review of this Order;
  - (d) all rights in any way to contest the validity of this Order; and
  - (e) any and all claims for fees, costs or expenses against the Comptroller, or any of his agents or employees, related in any way to this enforcement matter or this Order, whether arising under common law or under the terms of any statute, including, but not limited to, the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412.
  
- (2) Respondent shall not cause, participate in, or authorize the Bank (or any subsidiary or affiliate thereof) to incur, directly or indirectly, any legal (or other professional) expense relative to the negotiation and issuance of this Order except as permitted by 12 C.F.R. § 7.2014 and Part 359; and Respondent shall not, directly or indirectly, obtain or accept any indemnification (or other reimbursement) from the Bank (or any subsidiary or affiliate thereof) with respect to such amounts except as permitted by 12 C.F.R. § 7.2014 and Part 359.



(3) Respondent has read and understands the premises and obligations of this Order and declares that no separate promise or inducement of any kind has been made by the Comptroller, his agents or employees to cause or induce Respondent to agree to consent to the issuance of this Order or to execute this Order.

(4) This Order constitutes a settlement of cease and desist and civil money penalty proceedings contemplated by the Comptroller and arising out of the specific acts, omissions, or violations described in the Comptroller's Findings in Article II of this Order. However, the specific acts, omissions, or violations described in Article II may be used by the Comptroller in future enforcement actions to establish a pattern of misconduct or the continuation of a pattern of misconduct.

(5) The provisions of this Order shall not be construed as an adjudication on the merits and, except as set forth above in paragraph (4), shall not inhibit, estop, bar, or otherwise prevent the Comptroller from taking any action affecting Respondent if, at any time, he deems it appropriate to do so to fulfill the responsibilities placed upon him by the several laws of the United States of America.

(6) Respondent understands that nothing herein shall preclude any proceedings brought by the Comptroller to enforce the terms of this Order, and nothing herein constitutes, nor shall Respondent contend that it constitutes, a waiver of any right, power, or authority of any other representatives of the United

States or agencies thereof, including the Department of Justice, to bring other actions deemed appropriate.

IN TESTIMONY WHEREOF, the undersigned have hereunto set their hands.

/s/Susan Paoli  
Susan Paoli

9/18/12  
Date

/s/Kristina B. Whittaker  
Kristina B. Whittaker  
Deputy Comptroller for Special Supervision

Sept. 26, 2012  
Date